

Appln. No.: 10/805,016
Response dated Feb. 7, 2006
Reply to Office Action of Sep. 7, 2005

REMARKS

Claims 1-31 are pending in the Application. The Examiner has objected to the specification, objected to claim 30, and rejected claims 1-31. Applicants respectfully traverse the rejection of claims 1-31 and request reconsideration of claims 1-31, in light of the following remarks.

Claim Objections

Claim 30 is objected to because of informalities. Applicants respectfully submit that the amendments to claim 30 above reflect the appropriate correction and suffice to resolve the objection to claim 30.

Objections to the Specification

The Abstract is objected to because it exceeds the required 150-word limit. Applicants respectfully submit that the amendments to the Abstract above reflect the appropriate correction and suffice to resolve the objection to the Abstract.

The Disclosure is objected to because it has informalities. Applicants respectfully submit that the amendments to the Disclosure above reflect the appropriate correction and suffice to resolve the objection to the Disclosure.

Claim Rejections under 35 U.S.C. § 112

Claims 4 stands rejected under 35 U.S.C. § 112 second paragraph, as having insufficient antecedent basis for the limitation "the algorithms of the first processor...algorithms of the second processor." Applicants respectfully submit that the amendments to claim 4 above resolve the rejection to claim 4.

Claim Rejections under 35 U.S.C. § 101

Claims 1-24 stand rejected under 35 U.S.C. § 101. The Examiner asserts that claims 3 and 20 evidence that the first processor could merely be an algorithm. Applicants respectfully traverse the rejection, however claims 3 and 20 have been amended, and Applicants respectfully submit that the amendments to claims 3 and 20 above resolve the 35 U.S.C. § 101 rejection.

Appln. No.: 10/805,016
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Claim Rejections under 35 U.S.C. § 102

Claims 1-3, 5-10, 13-17, 20-26, and 29 stand rejected under 35 U.S.C. § 102(b) as being unpatentable by Schulman et al (US 5,531,774).

With regard to the anticipation rejections, MPEP 2131 states that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP 2131 also states that "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Regarding amended independent claim 1 and its dependent claims (i.e., claims 2-24), claim 1 recites: "[a] system that enhances the performance of cochlear implant using a preprocessor, the system comprising: at least one signal input device; a first processor that processes signals picked up by the at least one signal input device and sends the preprocessed signal to a second processor, wherein the first processor comprises a hearing aid processor; and a second processor that processes and encodes the signal in cochlear implants."

It is respectfully submitted that the referenced art, Schulman, fails to disclose the claimed invention of claim 1. More specifically, for example, Schulman fails to disclose a cochlear implant system using processing associated with hearing aids. Instead, Schulman discloses a cochlear implant system that strictly performs processing associated with cochlear implants.

Therefore, Applicants respectfully submit that the Schulman reference fails to anticipate Applicants' claim 1, for at least the reasons given above. Claim 1 is an independent claim having dependent claims 2-24. Applicants believe that independent claim 1 is allowable. Because claims 2-24 are dependent claims of claim 1, Applicants respectfully submit that claims 2-24 are, therefore, also allowable for at least the same reasons given with respect to claim 1. Applicants therefore request that the rejection of claims 1-24 under 35 U.S.C. § 102(b) be withdrawn.

Regarding amended independent claim 25 and its dependent claims (i.e., claims 26-31), claim 25 recites: "[a] method that enhances the performance of a system of a cochlear implant using a pre-processor from a hearing or audio device, the system utilizing at least one signal

Appln. No.: 10/805,016
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input device, a first processor, and a second processor, the method comprising: collecting sounds from a surrounding environment or other hearing or communication devices by the at least one signal input devices; preprocessing the collected sounds in the first processor, wherein the first processor comprises a hearing aid processor; feeding the preprocessed sounds into the second processor; processing the sounds in the second processor; and feeding the processed sounds into a transmitter.”

It is respectfully submitted that the referenced art, Schulman, fails to disclose the claimed invention of claim 25. More specifically, for example, Schulman fails to disclose a cochlear implant system using processing associated with hearing aids. Instead, Schulman discloses a cochlear implant system that strictly performs processing associated with cochlear implants.

Therefore, Applicants respectfully submit that the Schulman reference fails to anticipate Applicants' claim 25, for at least the reasons given above. Claim 25 is an independent claim having dependent claims 26-31. Applicants believe that independent claim 25 is allowable. Because claims 26-31 are dependent claims of claim 25, Applicants respectfully submit that claims 26-31 are, therefore, also allowable for at least the same reasons given with respect to claim 25. Applicants therefore request that the rejection of claims 25-31 under 35 U.S.C. § 102(b) be withdrawn.

Claim Rejections under 35 U.S.C. § 103

Claims 4, 11, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulman et al (US 5,531,774) in view of Karunasiri (US 6,195,585).

Claims 12 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulman et al (US 5,531,774) in view of Hahn et al. (US 6,212,431).

Claim 30 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulman et al (US 5,531,774) in view of Lindemann et al. (US 5,479,522).

Claim 31 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Schulman et al (US 5,531,774) in view of Lindemann et al. (US 5,479,522).

Regarding claims 4, 12, 11, 18, and 19, Applicants respectfully submit that claims 4, 12, 11, 18, and 19 are claims dependent on claim 1. Rejection of claim 1 was traversed by Applicants as set hereinabove, making rejection of claims 4, 12, 11, 18, and 19 moot.

Appln. No.: 10/805,016
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Similarly, regarding claims 30 and 31, Applicants respectfully submit that claims 30 and 31 are claims dependent on claim 25. Rejection of claim 25 was traversed by Applicants as set hereinabove, making rejection of claims 30 and 31 moot.

By this response, claims 1, 3, 4, 20, 23, 25, and 30 have been amended. Based on at least the foregoing, Applicants believe that all pending claims are in condition for allowance and respectfully request that the application be allowed and passed to issuance. If the Examiner disagrees or has questions regarding this submission, Applicant invites the Examiner to telephone the undersigned at (312) 775-8000.

The Commissioner is hereby authorized to charge additional fees or credit overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

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Respectfully submitted,


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